

Appl. No. 09/314,615

Reply to Office Action of January 23, 2007

**REMARKS/ARGUMENTS**

Reconsideration of the rejections set forth in the Office Action dated January 23, 2007 is respectfully requested. Claims 1-9, 12-24, 27, 29 and 30 have been allowed. Claims 10, 12, 13, and 25 have been rejected. Claims 11 and 26 are objected to. As such, claims 1-27, 29, and 30 are currently pending.

Claim 13 has been amended purely to expedite the prosecution of the instant application. It is noted that the subject matter originally presented in claim 13 is believed to be allowable, and the cancellation of elements of claim 13 is not to be construed as an agreement with the Examiner's position. The Applicant is not in agreement with the Examiner, but has amended claim 13 for the sole purpose of expediting the prosecution of the instant application.

**Rejections under 35 U.S.C. § 101**

Claims 10, 12, 13, and 25 have been rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Examiner argues that claims 10, 12, 13, and 25 are not limited to tangible embodiments. It is respectfully submitted that just because a carrier wave may not be visible, it does not follow that the carrier wave is intangible. For instance, it is known that transmissions may occur in a wireless manner between cellular telephones. Such transmissions include information that is data embodied in carrier waves. Wireless communications are widely used, and it is certainly possible to transmit data in a wireless manner. Data transmitted in a wireless manner is certainly tangible, though invisible. Hence, the Applicants submit that carrier waves exist, and are not intangible, as the Examiner asserts. Hence, the computer readable medium recited in claims 10, 12, 13, and 25 is covers tangible elements.

Although the Applicant does not agree with the Examiner's position that claims 10, 12, 23, and 25 are not limited to tangible embodiments, the Applicant has amended the Specification in a sincere effort to expedite the prosecution of the instant application. The removal of the disclosure of a carrier wave from the Specification is not to be construed as an

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agreement with the Examiner's position, as the Applicant is not in agreement with the Examiner. As the disclosure of a carrier wave is tangible, and was included in the Specification as filed, the Applicant maintains the right to reintroduce such a limitation in any future continuation, continuation-in-part, or divisional patent application.

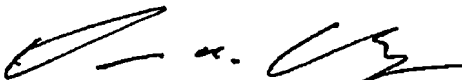
Allowable Subject Matter

Claims 1-9, 14-24, 27, 29, and 30 have been allowed. Claims 11 and 26 have been objected to. The Examiner has indicated that claims 11 and 26 would be allowable if rewritten to include the limitations of their respective base claims. The Applicant has chosen not to rewrite claims 11 and 26 in independent form, as he believes that the amendment to the Specification entered with the filing of this Amendment renders the respective base claims allowable.

Conclusion

For at least the foregoing reasons, the Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at 408-492-5192.

Respectfully submitted,



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